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STATUTES APPLICABLE

Historical

The present Texas statutes applicable to the questions involved in this litigation, being Articles 5520, 5521, 5522 and 5523, including the amendment thereof in 1931, of Vernon's Annotated Revised Civil Statutes of the State of Texas, Revision of 1925, had their beginning in Chapter 138, Acts of the Regular Session of the 29th Legislature of Texas (1905), and are the product of a number of subsequent re-enactments and amendments of the original act, as follows:

Acts of the Regular Session of the 33rd Legislature of the State of Texas (1913), Chapter 123, page 250, Volume 16, Gammel's Laws of Texas;

Acts of the 1st Called Session of the 33rd Legislature of the State of Texas (1913), Chapter 27, page 39, Volume 16, Gammel's Laws of Texas;

Acts of the Regular Session of the 39th Legislature of the State of Texas (1925), Chapter 64, page 215, Volume 22, Gammel's Laws of Texas; and

Acts of the Regular Session of the 42nd Legislature of the State of Texas (1931), Chapter 136, page 230, Volume 27, Gammel's Laws of Texas.

THE ACT OF 1905

MORTGAGES AND DEEDS OF TRUST—FIXING TIME WITHIN WHICH POWER OF SALE MAY BE EXERCISED.

Chapter 138.

H. B. No. 133)

An Act to fix the time within which the power of sale conferred in mortgages and deeds of trust may be exercised, and after which vendor's liens shall be presumed to be

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released and satisfied; and to repeal all laws and parts of laws in conflict.

Section 1. Be it enacted by the Legislature of the State of Texas: No power of sale conferred by deed of trust or mortgage on real estate executed after this Act shall become operative shall be enforced after the expiration of ten years from the maturing of the indebtedness secured thereby; and any sale under such power after expiration of such time shall be void, and such sale may be enjoined.

Sec. 2. When a vendor's lien is retained to secure purchase money in any sale of real estate after this Act shall become operative, the right to recover such real estate by virtue of the superior title retained shall be barred after the expiration of ten years from the maturity of the debt, and if suit is not brought for recovery of such real estate within such term, the purchase money thereafter shall be conclusively presumed to have been paid.

Sec. 3. It is further enacted that when the date of maturity of the debt referred to in either of the foregoing sections is extended, if the contract of extension is not signed and acknowledged according to law by the parties to the contract of extension and filed in the county clerk's office of the county in which the land is situated, the date of maturity as set out in the deed of trust, mortgage or deed, as the case may be, or, if there be one or more extensions of the date of maturity, the date of maturity set out in the latest contract of extension so acknowledged and filed, shall be conclusive evidence of the date of maturity of the indebtedness.

Sec. 5. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Sec. 6. The great necessity for this law, and the near approach of adjournment of the Legislature creates a public necessity, and an imperative emergency requiring that the rule that bills be read on three several days in

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each house be suspended, and the same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

(Note.—The enrolled bill shows that the foregoing act passed the House of Representatives, no vote given; it was referred to the Senate, where it was amended and passed by a two-thirds vote, yeas 24, nays 0; the House of Representatives concurred in the Senate amendments, no vote given.)

Approved April 17, 1905.

Takes effect 90 days after adjournment.

(Acts of the Regular Session of the 29th Legislature of the State of Texas (1905), Chapter 138, page 12, Gammel's Laws of Texas, and Sections 1, 2 and 3 thereof, having been brought forward as Articles 5693, 5694 and 5695, Revised Civil Statutes of Texas, 1911, later becoming incorporated in Articles 5520, 5521, 5522 and 5523 of Vernon's Annotated Revised Civil Statutes of the State of Texas, Revision of 1925, by amendments in 1913, in 1925 and in 1931.)

THE ACT OF 1913

(a)

LIMITATIONS—AMENDS SECTIONS 5693, 5694 AND 5695, CHAPTER 2, TITLE 87, R. S. 1911, RELATING THERETO.

Chapter 123.

H. B. No. 620)

An Act to amend Sections 5693, 5694 and 5695, Chapter 2, Title 87, Revised Civil Statutes of Texas, 1911, relating to deeds of trust and vendor's lien notes, providing that powers of sale conferred by deeds of trust and mortgages heretofore or hereafter given shall not be executed after the indebtedness is barred by limitation and that the

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lien created thereby shall cease to exist; and providing that the superior title reserved in deeds of conveyance and vendor's lien notes heretofore or hereafter given shall not be executed or collected after the notes are barred by limitation and that the liens created thereby shall cease to exist; providing a time within which suit may be brought to enforce existing deeds of trust and mortgages, and those owning or acquiring the superior title reserved in vendors' liens and deeds of conveyance heretofore executed may bring suit and assert their claims; and providing how such liens may be renewed and continued; and providing that said sections shall hereafter read as follows; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 5693, Revised Civil Statutes of Texas, 1911, Chapter 2, Title 87, shall hereafter read as follows:

Article 5693. No power of sale conferred by any deed of trust or any mortgage on real estate heretofore executed, or that may hereafter be executed, shall be enforced after the expiration of four years from the maturity of the indebtedness secured thereby, and any sale under such power after the expiration of such time shall be void, and such sale may be enjoined and the lien created in such mortgages or deeds of trust shall cease to exist four years after the maturity of the debt secured thereby. Provided, if several obligations are secured by said mortgage or deed of trust, the same may be enforced at any time prior to four years after the note or obligation last maturing has matured and may be enforced as to all notes or obligations ~~and~~ then barred by the four years Statute of Limitation.

Sec. 2. That Article 5694, Revised Civil Statutes of Texas, 1911, Chapter 2, Title 87, shall hereafter read as follows:

Article 5694. The right to recover any real estate by

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virtue of a superior title retained in any deed of conveyance heretofore or hereafter executed, or in any vendor's lien note or notes heretofore or hereafter executed, given for the purchase money of such real estate, shall be barred after the expiration of four years from the maturity of such indebtedness, and if suit is not brought for recovery of such real estate, or for the foreclosure of the lien to secure such note or notes within four years from the date of the maturity of such indebtedness, or if suit is not brought within such time for the recovery of the land by the original vendor, or his transferee, or for the foreclosure of the lien given to secure such notes, the purchase money therefor shall be conclusively presumed to have been paid in any suit to recover such land or to enforce a lien thereon, and the lien reserved in any such notes and deeds conveying the land shall cease to exist four years after the note or notes have matured, provided the lien reserved in such note or notes may be extended as provided in Section 5695 of this Chapter and provided, if several obligations are secured by said deed of conveyance, the same may be enforced at any time prior to four years after the note or obligation last maturing has matured and may be enforced as to all notes not then barred by the four years Statute of Limitations.

Sec. 3. That Article 5695, Chapter 2, Title 87, Revised Civil Statutes of Texas, 1911, shall hereafter read as follows:

Article 5695. When the date of maturity of either debt referred to in either of the foregoing Articles is extended, if the contract of extension is signed and acknowledged as provided for in the law relating to the execution of deeds of conveyance by the parties to the contract of extension, and filed for record in the county clerk's office in the county in which the land is situated, the lien shall continue and be in force until four years after maturity of the notes as provided in such extension the same as in the

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original contract, and the lien shall so continue for any succeeding or additional extensions so made and recorded. The date of maturity set forth in the deed of conveyance or deed of trust or mortgage, or the recorded renewal and extension of the same, shall be conclusive evidence of the date of maturity of the indebtedness therein mentioned. Provided that the owners of all notes secured by deeds of trust or other liens and the owners of all vendor's lien notes reserved in deeds of conveyance which were executed prior to July 14, 1905, and which are more than four years past due at the time this Act takes effect, as shown by the original mortgage, deed of trust or conveyance, shall have twelve months after this Act takes effect within which they may bring suit to enforce the liens securing them, if same are valid obligations when this Act takes effect, and if suit is not brought within such time the right to bring suit to enforce such liens shall be forever barred; and provided, that the owners of all notes secured by deeds of trust or other liens and the owners of all vendor lien notes reserved in deeds of conveyance, which were executed subsequent to July 14, 1905, shall have four years after this Act takes effect within which they may bring suit to enforce the liens securing them, if same are valid obligations and not already barred by the four years statute of limitation when this Act takes effect, and if suit is not brought within such four years, or four years after they mature, they shall be forever barred from the right to bring suit to enforce the lien securing the same; and providing those owning the superior title to land retained in any deed of conveyance, or his transferee and those subsequently acquiring such superior title by transfer shall have twelve months after this Act takes effect within which to bring suit for the land, if their claim to the land is not otherwise invalid, and unless such suit is brought within twelve months after this Act takes effect, they shall be forever barred from bringing suit to recover the same.

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Sec. 4. The fact of the near approach of the end of this session, and the fact that there are a great many land titles in this State that are clouded by reason of vendor's lien and deed of trusts appearing on the records apparently unpaid, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on three several days in each House, and this Act shall take effect and be in force from and after its passage.

(Note.—H. B. No. 620 passed the House of Representatives March 15, 1913, but no vote given, House refused to concur in Senate amendments and requested appointment of free conference committee, and House adopted report of free conference committee March 31, 1913, but no vote given; and passed the Senate with amendments by a two-thirds vote, yeas 23, nays 3, and Senate granted request of House for appointment of free conference committee and adopted report of free conference committee March 31, 1913, but no vote given.)

Approved April 3, 1913.

Takes effect 90 days after adjournment.

(Acts of the Regular Session of the 33rd Legislature of the State of Texas (1913), Chapter 123, page 250, Volume 16, Gammel's Laws of Texas, amending Articles 5693, 5694 and 5695 of the Revised Civil Statutes of Texas, 1911, became Articles 5693, 5694 and 5695 of Vernon's Sayles Annotated Civil Statutes of the State of Texas, 1914.)

(b)

LIENS—AMENDING ARTICLE 5695, REVISED STATUTES, 1911, RELATING THERETO.

Chapter 27.

H. B. No. 54)

An Act to amend Article 5695 Revised Civil Statutes of Texas, 1911, as amended by Chapter 123, Acts of the

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Thirty-third Legislature, relating to the renewal and extension of liens that are secured by deeds of trust, mortgages or original vendors lien on real estate, and providing that said Article shall hereafter read as follows; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 5695, Revised Civil Statutes of Texas, 1911, Chapter 2, Title 87, as amended by Chapter 123, Acts of the Thirty-third Legislature, shall hereafter read as follows:

Article 5695. When the date of maturity of either debt referred to in either of the foregoing articles is extended, if the contract of extension is signed and acknowledged as provided for in the law relating to the execution of deeds of conveyance by the party or parties obligated to pay such indebtedness as extended and filed for record in the county clerk's office in the county in which the land is situated, the lien shall continue and be in force until four years after maturity of the notes as provided in such extension, the same as in the original contract and the lien shall so continue for any succeeding or additional extension so made and recorded. The date of maturity set forth in the deed of conveyance or deed of trust or mortgage or the recorded renewal and extension of the same shall be conclusive evidence of the date of maturity of the indebtedness therein mentioned. Provided that the owners of all notes secured by deeds of trust or other liens and the owners of all vendors lien notes reserved in deeds of conveyance which were executed prior to July 14, 1905, and which are more than four years past due at the time this Act takes effect as shown by the original mortgage, deed of trust or conveyance, or last record extension shall have twelve months after this Act takes effect within which they may obtain such record extension as hereinbefore provided for, or bring suit to enforce the lien securing them if same are valid obligations when this Act takes

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effect and if such debt is not so extended of record, or suit is not brought within such time, the right to extend such debt of record, or bring suit to enforce such liens shall be forever barred; and provided that the owners of all notes secured by deeds of trust or other liens and the owners of all vendors lien notes reserved in deeds of conveyance which were executed subsequent to July 14, 1905, shall have four years after this Act takes effect within which they may obtain such recorded extension as herein provided for, or bring suit to enforce the liens securing them if same are valid obligations and not already barred by the four years statutes of limitation when this Act takes effect, and if such debt is not extended of record, or suit is not brought within such four years or four years after they mature, they shall be forever barred from the right to extend such debt of record, or bring suit to enforce the lien securing the same, and further provided if any such obligations executed subsequent to July 14, 1905, were barred by the four years statute of limitation on the 30th day of June, 1913, the owners thereof shall have four years within which to bring suit to enforce the lien securing the same; and providing those owning the superior title to land retained in any deed of conveyance or his transferee and those subsequently acquiring such superior title by transfer, shall have twelve months after this Act takes effect within which to bring suit for the land if their claim to the land is not otherwise invalid and unless such suit is brought *within twelve months after this Act takes effect*, they shall be forever barred from bringing suit to recover the same.

Sec. 2. The fact of the near approach of the end of this session and that great confusion exists by reason of the form of said Section 5695, as hertofore amended in the preparation of deeds of trust and extensions of liens and in the closing of loans thereon, creates an emergency and an imperative public necessity requiring the suspension of the constitutional rule requiring bills to be read on

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three several days in each House and this Act shall take effect and be in force from and after its passage.

(Note.—H. B. No. 54 was passed by the House August 18, 1913, but no vote given, and was passed by the Senate by a two-thirds vote: yeas 28, nays 0.)

Received in the Executive Office, August 19, 1913, and filed in the Department of State, August 20, 1913, without approval of the Governor.

Takes effect 90 days after adjournment.

(Acts of the First Called Session of the 33rd Legislature of the State of Texas, (1913), Chapter 27, page 39, Volume 16, Gammel's Laws of Texas, amending Article 5695 of the Revised Civil Statutes of Texas, 1911, being also Article 5695 of Vernon's-Sayles' Texas Civil Statutes, 1914.)

THE ACT OF 1925

RELATING TO NOTES SECURED BY DEEDS OF TRUST OR MORTGAGES ON LAND AND WHEN THE SAME SHALL BE BARRED BY LIMITATION.

H. B. No. 79)

Chapter 64.

An Act amending Article 5693, Chapter 2, Title 87, Revised Civil Statutes of Texas, 1911, as amended by Chapter 123 of the General Laws of Texas passed at the Regular Session of the Thirty-third Legislature, relating to notes secured by certain deeds of trust, or mortgages on land, and when the same shall be barred by limitation, and providing that powers of sale under deeds of trust or mortgages shall not be executed after the notes secured thereby are barred by limitation, and amending Article 5695, Chapter 2, Title 87, Revised Civil Statutes of Texas, 1911, as amended by Chapter 123, General Laws of Texas, passed at the Regular Ses-

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sion of the Thirty-third Legislature and as amended by Chapter 27, General Laws of Texas, passed at the First Called Session of the Thirty-third Legislature, relating to the renewal and extension of liens that are secured by deeds of trust, mortgages, or vendor's liens on real estate, and providing that hereafter said Articles shall read as herein; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Article 5693, Revised Civil Statutes of Texas, 1911, Chapter 2, Title 87, as amended by Chapter 123, General Laws of Texas, passed at the Regular Session of the Thirty-third Legislature shall hereafter read as follows:

Article 5693. No power of sale conferred by a deed of trust or other mortgage on real estate executed subsequent to the 14th day of July, 1905, and prior to the 1st day of July, 1913, shall be enforced after the expiration of ten years from the maturity date of the indebtedness secured thereby, and no power of sale conferred by any deed of trust or other mortgage on real estate executed on or subsequent to the 1st day of July, 1913, or that may hereafter be executed, shall be enforced after the expiration of four years from the maturity of the indebtedness secured thereby, and any such sale under such powers after the expiration of such times, shall be void, and such sale may be enjoined and the lien created in any such deeds of trust or mortgages as were executed subsequent to the 14th day of July, 1905 and prior to the 1st day of July, 1913, shall cease to exist ten years after the maturity date of the debt secured thereby, and as to all deeds of trust or mortgages as were executed on or subsequent to the 1st day of July, 1913, or that may hereafter be executed, the lien created thereby shall cease to exist four years after the maturity of the debt secured thereby; provided, if several obligations are secured by said mortgage or deed of trust, the same may be enforced at any time prior to four years

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after the note or obligation last maturing has matured and may be enforced as to all notes and obligations not then barred by the four years statute of limitations; provided, the lien created by such deeds of trust or other mortgages may be extended as provided in Section 1 of this Act amending Article 5695, Chapter 2, Title 87, Revised Civil Statutes of Texas, 1911, as amended.

Sec. 2. That Article 5695, Revised Civil Statutes of Texas, 1911, Chapter 2, Title 87, as amended by Chapter 123, of the Acts of the Thirty-third Legislature passed at the Regular Session, and as further amended by Chapter 27, Acts of the Thirty-third Legislature passed at the First Called Session, shall hereafter read as follows:

Article 5695. When the date of maturity of either debt referred to in either of the foregoing articles is extended, if the contract of extension is signed and acknowledged as provided for in the law relating to the execution of deeds of conveyance by the party or parties obligated to pay such indebtedness as extended and filed for record in the county clerk's office in the county in which the land is situated, the lien shall continue and be in force until four years after maturity of the notes as provided in such extension, the same as in the original contract and the lien shall so continue for any succeeding or additional extension so made and recorded. The date of maturity set forth in the deed of conveyance or deed of trust or mortgage, or the recorded renewal and extension of the same, shall be conclusive evidence of the date of maturity of the indebtedness therein mentioned. Provided the owner of the land and the holder of the note or notes may at any time enter into a valid agreement renewing and extending the debt and lien, so long as it does not prejudice the rights of lien holders or purchasers subsequent to the date such liens became barred of record under laws existing prior to the taking effect of, or under this Act; as to all such lien holders or purchasers any renewal or extension executed

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or filed for record after the note or notes and lien or liens were, or are, barred of record and before the filing for record of such renewal or extension, such renewal or extension shall be void.

Sec. 3. The fact that certain provisions of Articles 5693 and 5695, Revised Civil Statutes of Texas, 1911, as amended, have been held by the Supreme Court of Texas to be unconstitutional while sustaining the validity of other parts of said articles as amended, and the further fact that there exists conflicting holdings by the various courts of civil appeals of Texas as to whether or not the owners of the land and the holder of notes secured by deeds of trust or other mortgages and vendor's liens, may make valid renewals and extensions thereof after the same have apparently become barred of record under the law as now written, creates an emergency, and a public necessity requiring that the constitutional rule providing that bills shall be read on three several days in each House shall be suspended, and said rule is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

(Note.—The enrolled bill shows that the foregoing Act passed the House, no vote given; passed the Senate, no vote given.)

Approved March 9, 1925.

Effective ninety (90) days after adjournment.

(Acts of the Regular Session of the 39th Legislature of the State of Texas (1925), Chapter 64, page 215, Volume 22, Gammel's Laws of Texas, amending Article 5693, Revised Civil Statutes of Texas, 1911, and Vernon's Sayles Texas Civil Statutes, 1914.)

THE ACT OF 1931

“Revised Civil Statutes of Texas, 1911,” and “Vernon's Sayles Annotated Civil Statutes of the State of Texas,

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1914," were revised in 1925, and became known as "Revised Civil Statutes of Texas, 1925," and "Vernon's Annotated Revised Civil Statutes of the State of Texas, Revision of 1925." By this Revision Articles 5693, 5694 and 5695 of the "Revised Civil Statutes of Texas, 1911," and of "Vernon's Sayles Annotated Civil Statutes of the State of Texas, 1914," became Articles 5520, 5521, 5522 and 5523 of the "Revised Civil Statutes of Texas, 1925," and "Vernon's Annotated Revised Civil Statutes of the State of Texas, Revision of 1925," and now constitute the present statutes of the State of Texas applicable to certain issues involved in this litigation, subject to "The Act of 1931," hereinbelow quoted in full, which Act had for its purpose the elimination of the confusion existing as to when the bar of the statute fell on a series of notes or on an installment note.

LIENS AND TRUST NOTES SECURED BY LIEN ON REAL ESTATE.

H. B. No. 163)

Chapter 136.

An Act repealing Articles 5521 and 5523, and amending Article 5520, Chapter 1, Title 91, Revised Civil Statutes of Texas, 1925, relating to Vendor's Lien, Mortgage Lien, Deed of Trust Notes secured by lien on real estate, providing time and manner of the running of limitation thereon; and of actions to recover real estate by virtue of a superior title retained by vendors or grantors, and for the presumption of payment and existence of lien; providing the time and manner of enforcement of said notes and liens to secure the same, and for the expiration of the lien in certain cases; providing for the extension of liens and renewal of notes; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Articles 5521 and 5523, Chapter 1, Title

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91 of the Revised Civil Statutes of 1925, be, and the same are hereby repealed.

Sec. 2. The Article 5520, Chapter 1, Title 91, of the Revised Civil Statutes of 1925, be, and the same is hereby amended so as to hereafter read as follows:

Article 5520. Actions by vendors, etc. There shall be commenced and prosecuted within four (4) years after the cause of action shall have accrued and not afterward, except as herein provided, all actions of the following description:

1. Actions to recover real estate by virtue of a superior title retained by the vendor in a deed of conveyance or purchase money note.

2. Actions for the foreclosure of vendor's liens on real estate.

3. Actions to foreclose deed of trust or mortgage liens on real estate.

Provided, however, that where a series of notes may be given or any note may be made payable in installments, or if any other instrument is executed which creates an obligation on the Vendee or Grantee of real estate to pay for the same in installments or partial payments, limitation shall not begin to run until the maturity date of said last note or installment. Upon the expiration of four (4) years from and after the date of maturity of the last said note or installment, payment shall be conclusively presumed to have been made of each of said notes and installment, and the lien for the security of same shall cease to exist, unless the same is extended by an agreement in writing by the party or parties primarily liable for the payment of the indebtedness, as provided by law. The lien created by deeds of trust or other mortgages may be extended by an agreement in writing by the party or parties primarily liable for the payment of such indebtedness, and filed and

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recorded in the manner provided for the acknowledgment and record of conveyance of real estate.

No power of sale conferred by a deed of trust or other mortgage on real estate executed subsequent to the 14th day of July, 1905, and prior to the 1st day of July, 1913, shall be enforced after the expiration of ten (10) years from the maturity date of the indebtedness secured thereby, and no power of sale conferred by any deed of trust or other mortgage on real estate executed on or subsequent to the 1st day of July, 1913, or that may hereafter be executed, shall be enforced after the expiration of four (4) years from the maturity of the indebtedness secured thereby, and any such sale under such powers after the expiration of such times, shall be void, and such sale may be enjoined and the lien created in any such deeds of trust or mortgages as were executed subsequent to the 14th day of July, 1905, and prior to the 1st day of July, 1913, shall cease to exist ten (10) years after the maturity date of the debt secured thereby, and as to all deeds of trust or mortgages as were executed on or subsequent to the 1st day of July, 1913, or that may hereafter be executed, the lien created thereby shall cease to exist four (4) years after the maturity of the debt secured thereby.

Sec. 3. The fact that the Supreme Court of Texas has intimated that although a series of notes secured by a mortgage or deed of trust do not run by limitation until four (4) years from the maturity date of the last of such series, whereas, vendor's lien notes run by limitation four (4) years from maturity of each such note, all of which is confusing; and the fact that the present statutes relating to the running of limitation are confusing and ambiguous and the fact that limitation should run from the same date of all of such notes, create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days be suspended, and that Rule is hereby suspended, and it is so enacted.

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Approved May 18, 1931.

Effective 90 days after adjournment.

(Note.—H. B. No. 163 passed the House by a viva voce vote; passed the Senate by a viva voce vote.)

(Acts of the Regular Session of the 42nd Legislature of the State of Texas, 1931, Chapter 136, page 230, Volume 27, Gammel's Laws of Texas.)

Article 5518, Revised Civil Statutes of Texas, 1925
and Vernon's Annotated Revised Civil Statutes
of the State of Texas, Revision of 1925.

If a person entitled to sue for the recovery of real property or make any defense founded on the title thereto, be at the time such title shall first descend or the adverse possession commence:

1. A person, including a married woman, under twenty-one years of age, or
2. In time of war, a person in the military or naval service of the United States, or
3. A person of unsound mind, or
4. A person imprisoned, the time during which such disability or status shall continue shall not be deemed any portion of the time limited for the commencement of such suit, or the making of such defense; and such person shall have the same time after the removal of his disability that is allowed to others by the provisions of this title; provided, that notwithstanding a person may be or may have been laboring under any of the disabilities mentioned in this article, one having the right of action for the recovery of any lands, tenements or hereditaments against another having peaceable and adverse possession thereof, cultivating, using or enjoying same, shall institute his suit therefor

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within twenty-five years next after his cause of action shall have accrued and not thereafter. (Acts 1841, p. 163; P. D. 4621-4; Acts 1895, p. 35; Acts 1919, 2nd C. S., p. 139; G. L. Vol. 2, p. 627; G. L. Vol. 10, p. 765.)

Article 5538, Revised Civil Statutes of Texas, 1925
and Vernon's Annotated Revised Civil Statutes
of the State or Texas, Revision of 1925.

Limitation after death.

In case of the death of any person against whom or in whose favor there may be a cause of action, the law of limitation shall cease to run against such cause of action until twelve months after such death, unless an administrator or executor shall have sooner qualified according to law upon such deceased person's estate; in which case the law of limitation shall only cease to run until such qualification. (Id. P. D. 4606.)